

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

J.E.F.M., a minor, by and through his Next  
Friend, Bob Ekblad, et al.,

Plaintiffs-Petitioners,

v.

Loretta Lynch, Attorney General, United  
States, et al.,

Defendants-Respondents.

No. 2:14-cv-01026

DEFENDANTS' NOTICE OF  
PROPOSED ACTION BY THE  
DEPARTMENT OF HEALTH AND  
HUMAN SERVICES CONCERNING  
NEW FUNDING FOR  
REPRESENTATION OF  
UNACCOMPANIED ALIEN  
CHILDREN

Defendants hereby notify the Court of significant impending action that substantially supports Defendants' pending motions to certify an interlocutory appeal and to stay these proceedings pending the outcome of that appeal. *See* ECF 132, 133.

On June 15, 2015, the Department of Health and Human Services (HHS), which is statutorily responsible for the care and placement of unaccompanied alien children (UACs) in the United States, determined that funding is available in its remaining FY 2015 budget to issue Requests for Proposals (RFP) for contracts to provide legal services and direct representation to unaccompanied alien children. *See* HHS, Solicitation for Legal Services Providers, *available at*

1 <https://www.fbo.gov/spg/HHS/PSC/DAM/RFP15-233-SOL-00264/listing.html> (last accessed  
2 June 15, 2015); Solicitation, RFP 15-233-SOL-00264 (“Solicitation”) at 5-10, *available at*  
3 <https://www.fbo.gov/utills/view?id=0e6942f920180ae358addb0a7cb4bcfb> (last accessed June  
4 15, 2015).<sup>1</sup> The RFP seeks multiple regionally-based vendors to provide all legal services to  
5 UACs, utilizing a five-year option contract starting August 15, 2015. *Id.* at 7-12, 27. Per the  
6 solicitation, the contractor selected shall provide, among other things: (1) “Pro Bono legal  
7 representation to the great extent practicable;” (2) “Direct representation to the greatest extent  
8 practicable;” (3) “Screenings for legal relief and for human trafficking concerns;” (4) “Friends  
9 of the court services where applicable and allowed under local immigration court rules;” and (5)  
10 “Know Your Rights (KYR) presentations.” *Id.* at 6. The services are to be provided within a  
11 100 mile radius of 23 geographic regions with UAC populations, including Seattle, WA. *Id.* at  
12 7-8.

13 A second RFP seeks a contractor to provide child advocate services to UACs in nine  
14 specific jurisdictions. *See* Office of Refugee Resettlement, Solicitation, *available at*  
15 [https://www.fbo.gov/index?s=opportunity&mode=form&id=ec51c3901da3286aaaf331fc50bd6](https://www.fbo.gov/index?s=opportunity&mode=form&id=ec51c3901da3286aaaf331fc50bd6bf2&tab=core&_cview=0)  
16 <https://www.fbo.gov/utills/view?id=ea50323f0340e34fc63215955d2519d2> (last accessed June  
17 15, 2015). Specifically, the RFP seeks to establish a program where an “assigned child advocate  
18 spends time with the child and develops a relationship of trust with the child.” Child Advocate  
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20 <sup>1</sup> Defendants formally request that the Court take judicial notice of both RFPs. The documents  
21 are formalized, public government documents reflecting an official request for bids on the  
22 provision of legal services. This is a quintessentially judicially noticeable document, as it is a  
23 verifiable adjudicative fact. *See, e.g., Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998-99  
24 (9th Cir. 2010) (“It is appropriate to take judicial notice of this information, as it was made  
25 publicly available by government entities . . . , and neither party disputes the authenticity of the  
26 web sites or the accuracy of the information displayed therein”); *County of Santa Clara v. Astra*  
*USA, Inc.*, 401 F. Supp. 2d 1022, 1024 (N.D. Cal. 2005) (taking judicial notice of information  
posted on a Department of Health and Human Services web site).

1 Solicitation at 3. Duties will include: (1) “to develop a service plan with the shelter facility staff  
2 and child's attorney,” (2) “visit the child regularly,” (3) “explain communication limitations and  
3 confidentiality to the child,” and (4) “obtain background information on the child, including  
4 information concerning the child's departure from his or her country of origin, the child’s  
5 journey to the United States, the child’s arrival in the United States, the period between  
6 apprehension and transfer to HHS custody, and time in the United States before apprehension, if  
7 any.” *Id.* In addition, child advocates will “help[s] the child process information and explain[]  
8 the consequences of decisions,” assist “the child to make decisions in situations in which the  
9 child requests help,” and assist children unable to make decisions on their own due to cognitive  
10 or other reasons pursue their best interest. *Id.*

11 These developments further demonstrate why a stay would neither harm any of the  
12 named Plaintiffs nor the larger general population of unaccompanied alien children in the  
13 United States with pending removal proceedings. Not only are none of the named Plaintiffs  
14 likely to face constitutional (or any other) harm during the period of the requested stay,<sup>2</sup> *see*  
15 ECF 154, Ex. A, but in light of HHS’s proposal, many more unaccompanied alien children will  
16 be receiving legal assistance during the removal process. Because the Government’s  
17 interlocutory appeal--assuming this Court permits it and the Ninth Circuit Court of Appeals  
18 agrees to hear it--will be fully briefed by the parties during the period when these funds will be  
19 expended to provide legal assistance, the best course of action is to certify and stay this

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20 <sup>2</sup> As argued in Defendant’s opposition to Plaintiff’s motion seeking leave to file a surreply of the  
21 six remaining Named Plaintiffs: (a) three have administratively closed proceedings and have  
22 already received asylum status; (b) one has been granted Special Immigrant Juvenile Status; (c)  
23 one has obtained an attorney and is not scheduled for a merits hearing until after his eighteenth  
24 birthday; and (d) one was granted a continuance for more than a year (which could likely be  
25 longer than the requested stay period) in order to have sufficient time to file a non-adversarial  
26 asylum application with USCIS, just as the other Plaintiffs have successfully done. ECF 158 at  
1-2. In short, Plaintiffs cannot show that any of the Named Plaintiffs are likely to face a merits  
removal hearing (much less be ordered removed) while unrepresented and under age during the  
period of the requested stay. *Id.* at 3.

1 litigation to ensure that this matter is properly within this Court's jurisdiction before proceeding  
2 any further with what could be unnecessary resource-intensive and substantially burdensome  
3 litigation.

4 DATED: June 17, 2015

Respectfully Submitted,

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15 /s/ Erez Reuveni  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this June 17, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all parties of record.

s/ Erez R. Reuveni  
EREZ R. REUVENI  
Senior Litigation Counsel